



# **BOARD OF ADJUSTMENT AGENDA**

**REGULAR MEETING  
MONDAY JULY 28, 2014  
4:30 P.M.**

## **CITY COUNCIL CHAMBERS**

1. Meeting Called to Order.
2. Roll Call
3. Reading of the Minutes of the June 23, 2014 Regular Meeting.
4. Public comment period. The general public is invited to address the Board of Adjustment regarding any item on this agenda. The overall and individual speaking time allotments may be limited by the Chair.
5. Re-consider (due to address error) Ron Reeve's request to move Fergy's Total Package Pole sign 3' 6" to the west because of Broad Street widening.
6. Consider Ron Vlach's request to erect accessory building in front yard.
7. Consider request of Henry Martinez to construct roofed porch with insufficient front yard setback.
8. Consider request of Dylan Nielsen to place a shed with insufficient side yard setback and 4 feet from residence.
9. Consider request of Lucinda P. Mumm's request for a 5 x 10 porch with insufficient front yard setbacks.
10. Consider request of Janet Wilcox to construct additional overhang which creates a 6 foot encroachment of the front yard 25' setback.
11. Consider request of Tom Sawyer to allow access way through buffer yard to rear of building.

**THIS MEETING WAS PRECEDED BY PUBLICIZED NOTICE IN THE FREMONT TRIBUNE AND THE AGENDA DISPLAYED IN THE LOBBY OF THE MUNICIPAL BUILDING AND POSTED ONLINE AT [WWW.FREMONTNE.GOV](http://WWW.FREMONTNE.GOV) AND DISTRIBUTED TO THE BOARD OF ADJUSTMENT, MAYOR AND CITY COUNCIL ON JULY 18, 2014 AND IS OPEN TO THE PUBLIC. A COPY OF THE AGENDA WAS KEPT CONTINUALLY CURRENT AND AVAILABLE TO THE PUBLIC AT 400 EAST MILITARY, 3<sup>RD</sup> FLOOR. A COPY OF THE OPEN MEETING LAW IS POSTED CONTINUALLY FOR PUBLIC INSPECTION LOCATED NEAR THE COUNCIL CHAMBERS ENTRANCE DOOR BY THE AGENDAS. THE BOARD OF ADJUSTMENT RESERVES THE RIGHT TO ADJUST THE ORDER OF ITEMS ON THIS AGENDA.**

## STAFF REPORT

**TO:** Board of Adjustment

**FROM:** Don Simon, Chief Building Inspector

**DATE:** July 15, 2014

**SUBJECT:** Fergy's Total Package's, c/o Ron Reeve, request to move existing pole sign 3'-6" to the west to accommodate future Broad Street widening.

**Recommendation:** Staff recommends approval of the requested variance.

**Background:** This was previously approved in April of 2014 but was published and approved with an incorrect address. The sign needs to be moved to accommodate the widening of Broad Street from 5<sup>th</sup> to 10<sup>th</sup> Street that will be completed by the Nebraska Department of Roads in 2015.

## STAFF REPORT

**TO:** Board of Adjustment

**FROM:** Justin Zetterman, City Engineer / Interim Planning Director

**DATE:** July 22, 2014

**SUBJECT:** Victory Lake Marine, Inc's, c/o Ron Vlach, request to construct an accessory building for the purpose of long term vehicle storage in the front yard of the principal structure.

**Recommendation:** Staff recommends approval of the requested variance

**Background:** This property is located at 2450 West Military Avenue and is located to the west of the municipal boundary of the City of Fremont approximately one half mile west of the intersection of Ridge Road and West Military.

The property is located in the RL Lake and River Residential Zoning District and is 10.26 acres in area. The applicant is requesting the variance from Article 7, Section 704 which notes that accessory buildings must be located to the side or rear of the principle structure. The proposed accessory building, if the variance is granted, would be placed 17.5 feet south of the existing house and 25' north of the south property line. The applicant is requesting the variance in order to leave the remainder of the property open to future subdivision actions and minimize the development footprint of the parcel.

The existing house was constructed without consideration of the future zoning that would be placed upon the ground. The house sits 350 feet from the south property line of the front yard. The inability to build within the front yard of this property greatly decreases the owner's ability to use this property. Building sites on this property are then further constrained by a 60' gas line easement that starts at roughly the middle of the north property line and heads to the southeast.

Staff has not seen building plans for the proposed structure, but have discussed with Mr. Vlach various concerns and fire code regulations that would be in place on a structure of this size, located in the particular space that the applicant is requesting approval to build.

Because the layout of the site and the likely development pressure in the future, staff is recommending approval of the variance in order to keep the majority of the property open to future development.



**Required Findings:**

- (a) The strict application of the zoning regulations will produce an undue hardship.
  - The amount of property that sits in front of the house is lost to building construction due to zoning that was not in place when the farmhouse was constructed.
- (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity
  - The buildable area of the site is further restricted by a 60' wide gas main easement running through this property.
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by granting of the variance.
  - Large metal buildings are very common on West Military Ave when heading west from Ridge Road. There is also an existing metal building on one of the adjacent properties to the south.
- (d) The granting of the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
- (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to this zoning regulations.
- (f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.

CHRISTENSEN FIELD ROAD

16TH STREET

ISAAC WALTON

T.L. 11  
0.52 A

T.L. 12  
7.62 A

T.L. 13  
7.01 A

T.L. 32  
26.5 A

T.L. 66  
10.26 A

2450 W MILITARY AVE

T.L. 14  
0.72 A

T.L. 14  
0.72 A

T.L. 14  
0.72 A

T.L. 14  
0.72 A

T.L. 15  
7.97 A

T.L. 21  
1.16 A

T.L. 22  
3.31 A

T.L. 16  
0.72 A

T.L. 63  
0.32 A

T.L. 64  
1.03 A

T.L. 1.0  
T.L.  
T.L.  
T.L.  
T.L.

LAKE NO. 13

STATE LAKES ROAD

STATE LAKES ROAD

AVENUE



## STAFF REPORT

**TO:** Board of Adjustment

**FROM:** Don Simon, Chief Building Inspector

**DATE:** July 15, 2014

**SUBJECT:** Henry Martinez's request to construct a covered porch within the front yard setback.

**Recommendation:** Staff recommends denial of the encroachment into the 25' front yard setback.

**Background:** This property is located at 1215 North Pierce Street. Applicant states his front door has no overhang which allows for rain water to enter premises. The requested is to build a roofed porch that extends into the front yard setback. The maximum encroachment for an overhang is 2 feet.

**Required Findings:**

- (a) The strict application of the zoning regulations will produce an undue hardship.
- (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by granting of the variance.
- (d) The granting of the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
- (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to this zoning regulations.
- (f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.



## STAFF REPORT

**TO:** Board of Adjustment

**FROM:** Don Simon, Chief Building Inspector

**DATE:** July 15, 2014

**SUBJECT:** Dylan Nielsen's request to construct an accessory building that encroaches on the rear yard setback for an accessory building and that is 4 feet from the residence.

**Recommendation:** Staff recommends approval of shed with conditions.

**Background:** This property is located at 1944 East Pearl Street. The applicant states he has torn down 2 old, unsightly sheds that were both in non-compliance and would now place a new 10 x 15 shed in their location. View of the shed is buffered by an existing privacy fence on the property.

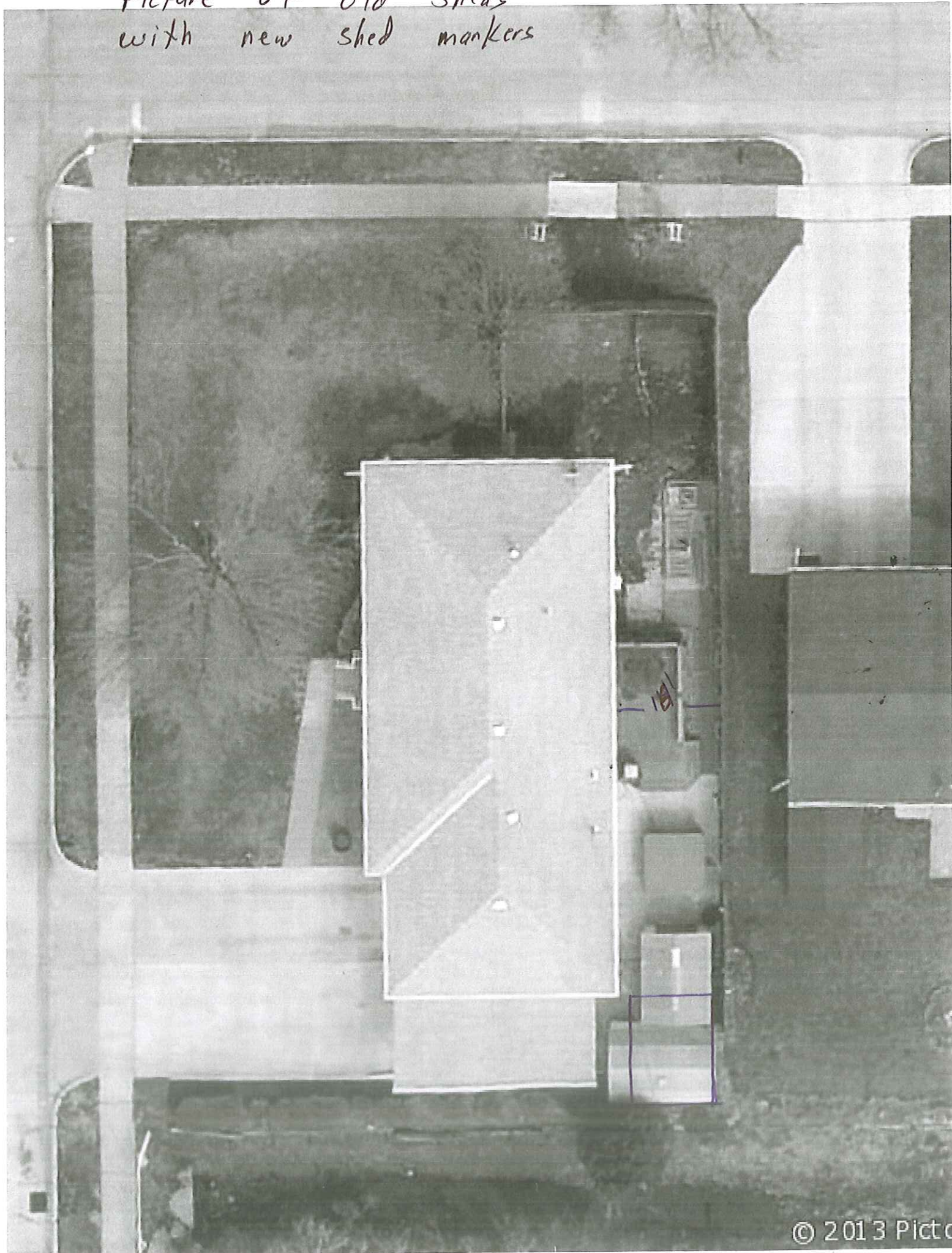
**Conditions:** Staff recommends the shed have all walls and ceiling firerocked which will create a safer condition. Staff also recommends the shed be placed 3 feet from rear lot line and 3 feet from residence.

**Required Findings:**

- (a) The strict application of the zoning regulations will produce an undue hardship.
- (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by granting of the variance.
- (d) The granting of the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
- (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to this zoning regulations.
- (f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.



Picture of old Sheds  
with new shed markers







## STAFF REPORT

**TO:** Board of Adjustment

**FROM:** Don Simon, Chief Building Inspector

**DATE:** July 15, 2014

**SUBJECT:** Lucinda P. Mumm's request to construct a 5' x 10' porch on the front of the house encroaching on the front yard setback requirement.

**Recommendation:** Staff recommends denial of a 5' x 10' porch, but recommends approval of covering the existing, crumbling front steps with a wooden porch to improve access to the house.

**Background:** This property is located at 520 W 3<sup>rd</sup> Street. Applicant states her front porch steps are crumbling and sinking and she has difficulty accessing her front door. The existing house already encroaches on the 25' front yard setback. Construction of the proposed porch would extend beyond the 20' setback for a wooden porch on the front of a house. Staff recommends that the existing stoop and steps be allowed to be covered as necessary to create safe access into the house. This would also be consistent with past applications.

**Required Findings:**

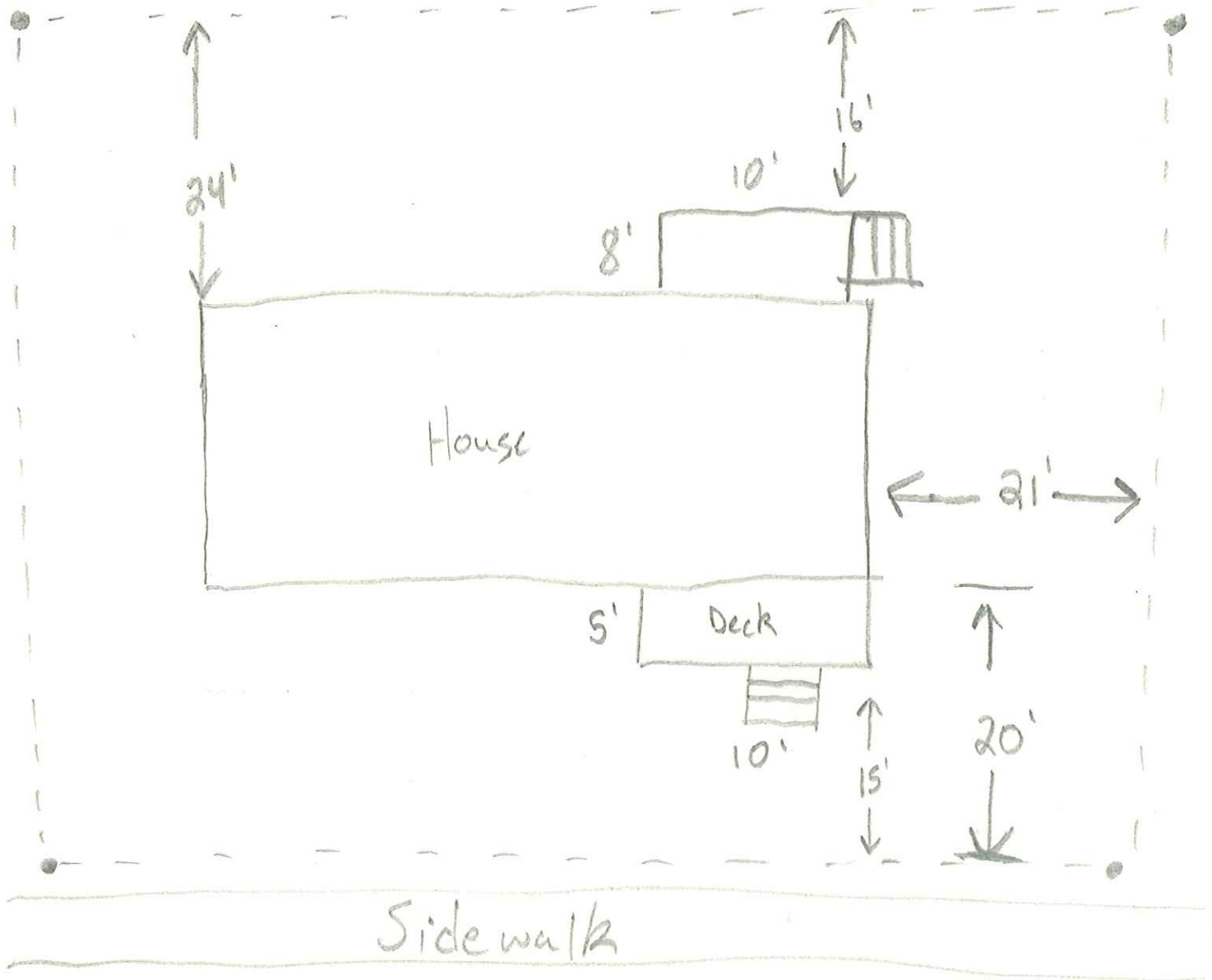
- (a) The strict application of the zoning regulations will produce an undue hardship.
- (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by granting of the variance.
- (d) The granting of the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
- (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to this zoning regulations.
- (f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.

LEGAL DESCRIPTION

North side

Dave 402-936-0069  
DeD Construction

Property line



Street

South side



## STAFF REPORT

**TO:** Board of Adjustment

**FROM:** Don Simon, Chief Building Inspector

**DATE:** July 15, 2014

**SUBJECT:** Janet Wilcox's request to cover a portion of the ramped access to the front of her home. This roof extension would encroach into the front yard setback.

**Recommendation:** Staff recommends denial of this request and recommends maintaining a 25' setback with an allowable 2' overhang into setback.

**Background:** This property is located at 1104 West 1<sup>st</sup> Street. The home currently has an accessible ramp constructed out of wood to the front door of the house. The applicant would like to cover a portion of this stoop and walkway. This roof section would extend into the front yard setback, beyond the 2' allowable encroachment.

**Required Findings:**

- (a) The strict application of the zoning regulations will produce an undue hardship.
- (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by granting of the variance.
- (d) The granting of the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
- (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to this zoning regulations.
- (f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.







## STAFF REPORT

**TO:** Board of Adjustment

**FROM:** Don Simon, Chief Building Inspector

**DATE:** July 15, 2014

**SUBJECT:** Tom Sawyer's request to construct an access road through a portion of the required 30' buffer on the west side of his proposed structure.

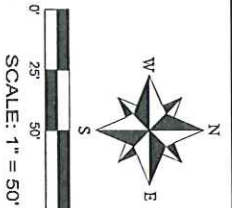
**Recommendation:** Allowing a paved access area through the 30' buffer yard to access equipment behind business. Applicant to establish the exact dimension of access way. The remainder of the buffer yard will have a 2" diameter tree every 20 feet and provide a screening fence as per 806 (A) on page 8-3.

**Background:** This property is located at 336 Shuster Ranch Road. The applicant is erecting addition to recycling warehouse zoned GC, General Commercial. The applicant wishes to have a drive access to the rear of the building located on the west side of the structure. To the west of this property is land zoned R-4 requiring a 30' buffer. The proposed building is located 39' from the west property line. Construction of the access drive will create an approximate 20 buffer yard instead of the 30 that is required. As stated in Note 3:(c) Buffer yard must be entirely landscaped and free of paved area, access way, storage or other disturbances.

### Required Findings:

- (a) The strict application of the zoning regulations will produce an undue hardship.
- (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity
- (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by granting of the variance.
- (d) The granting of the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
- (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to this zoning regulations.
- (f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.

# A REPLAT OF LOTS 3 AND 4, SAWYER 2ND SUBDIVISION TO THE CITY OF FREMONT, DODGE COUNTY, NEBRASKA



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	55.00' (M)	66.65' (M)	62.65' (M)	N 00°34'55" E
C2	55.00' (M)	66.65' (M)	62.64' (M)	N 70°00'43" E
C3	55.00' (M)	22.23' (M)	22.08' (M)	S 63°41'44" E
C4	55.00' (M)	35.81' (M)	35.18' (M)	S 70°46'03" E

## LEGAL DESCRIPTION:

LOT 3 AND LOT 4, OF SAWYER 2ND  
SUBDIVISION TO THE CITY OF FREMONT,  
DODGE COUNTY, NEBRASKA.

## DEDICATION:

KNOW ALL MEN BY THESE PRESENTS: THAT TOM AND MARKA SAWYER, HUSBAND AND WIFE, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY DESCRIBED WITHIN THE LEGAL DESCRIPTION AND EMBRACED WITHIN THIS PLAT, HAS CAUSED SAID LAND TO BE REPLATTED INTO TWO (2) LOTS, TO BE NAMED AND NUMBERED AS SHOWN, SAID REPLAT TO BE HEREAFTER KNOWN AS "REPLAT OF LOTS 3 AND 4, OF SAWYER 2ND SUBDIVISION," SAID OWNER HEREBY RATIFIES AND APPROVES OF THE DISPOSITION OF THEIR PROPERTY, AS SHOWN ON THIS PLAT. SAID OWNER HEREBY GRANTS UTILITY EASEMENTS AT THE LOCATIONS AND WIDTHS SHOWN ON THIS PLAT. SAID EASEMENTS ARE RESERVED FOR THE USE OF PUBLIC UTILITIES, AND ARE SUBJECT TO THE PARAMOUNT RIGHT OF THE PUBLIC UTILITY TO INSTALL, REPAIR, REPLACE AND MAINTAIN ITS INSTALLATIONS.

## NOTARY:

STATE OF NEBRASKA  
DODGE COUNTY

THE FOREGOING DEDICATION WAS ACKNOWLEDGED BEFORE ME

BY TOM AND MARKA SAWYER, THIS \_\_\_\_\_ DAY

OF \_\_\_\_\_, A.D., 2014.

NOTARY PUBLIC  
MY COMMISSION EXPIRES \_\_\_\_\_

TOM SAWYER, OWNER

MARKA SAWYER, OWNER

## CITY OF FREMONT PLANNING COMMISSION APPROVAL:

THIS REPLAT OF LOTS 3 AND 4, OF SAWYER 2ND SUBDIVISION HAS BEEN SUBMITTED TO AND APPROVED BY THE CITY OF FREMONT PLANNING COMMISSION, AND IS HEREBY TRANSMITTED TO THE CITY COUNCIL OF FREMONT, NEBRASKA, WITH THE RECOMMENDATION THAT THIS PLAT BE APPROVED AS PROPOSED.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

CITY OF FREMONT PLANNING COMMISSION:

CHAIRPERSON \_\_\_\_\_

SECRETARY \_\_\_\_\_

## FREMONT CITY COUNCIL APPROVAL:

THE PLAT AND THE DEDICATIONS SHOWN ON THIS PLAT ARE HEREBY ACCEPTED BY THE FREMONT CITY COUNCIL, DODGE COUNTY, NEBRASKA.

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

MAYOR \_\_\_\_\_

CITY CLERK \_\_\_\_\_

OWNER:  
TOM & MARKA SAWYER  
2324 PARK PLACE  
FREMONT, NE 68025

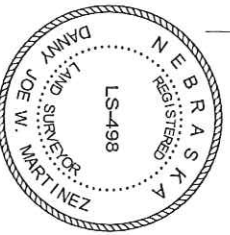
**APEX**  
LAND SURVEYING, LLC

Danny Martinez, RLS  
125 N. Clammar Ave.  
Fremont, Nebraska 68025  
(402) 720-0339 Office / Mobile  
danny.surveying@gmail.com

**SURVEYOR'S CERTIFICATION:**  
I, DANNY JOE W. MARTINEZ, A REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS REPLAT OF LOTS 3 AND 4, OF SAWYER 2ND SUBDIVISION HAS BEEN SURVEYED BY ME OR UNDER MY SUPERVISION, AND THAT THE LEGAL DESCRIPTION IS AS STATED ON THIS PLAT. PERMANENT MONUMENTS HAVE BEEN FOUND OR ESTABLISHED AT ALL LOCATIONS SHOWN ON THIS PLAT.

DANNY JOE W. MARTINEZ, L.S. 498

DATE \_\_\_\_\_



- LEGEND:**
- MONUMENT FOUND
  - MONUMENT SET
  - COMPUTED POSITION (NOT SET)
  - (M) MEASURED DISTANCE
  - (P) PLAT DISTANCE
  - (D) DEED DISTANCE
1. ALL DIMENSIONS ARE ASSUMED.  
2. ALL MONUMENTS FOUND ARE 4" REBAR.  
3. ALL MONUMENTS SET ARE 1/2" REBAR WITH A PLASTIC CAP STAMPED "LS-498" UNLESS NOTED OTHERWISE.

Client	Tom & Marka Sawyer
Date	04/04/14
Project No.	Sawyer-L3L4-Sawyer2nd-Fremont
Scale	1" = 50'
Sheet	Sawyer-L3L4-Sawyer2nd-Fremont.dwg
Issue No.	1